

***United States Court of Appeals
for the Second Circuit***



APPENDIX

ORIGINAL

77-1450

**United States Court of Appeals
For the Second Circuit**

UNITED STATES OF AMERICA,

Appellee

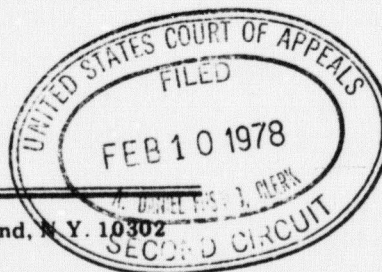
-against-

WILLIAM LACEY,

Appellant.

APPELLANT'S APPENDIX

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DOCKET ENTRIES

3/25/77 Filed Indictment. B/W Ordered ... Metzner, J.
B/W Issued.

3/31/77 Deft. not present (B/W Issued). Court directs
a not guilty plea be entered. Case assigned to Cannella, J. for
all purposes ... Metzner, J.

4/13/77 Deft. & Atty. present . Bail fixed in sum of
\$50,000 cash or surety .. F/P Deft to surrender passport .. Ten days
to make motions ... Cannella, J.... (remand to USM)

4/15/77 Filed bail bond in amt. of \$50,000 by The
Stuyvesant Ins. Co. dated 4/15/77.

4/15/77 Filed remand dated 4/13/77..

4/15/77 Filed warrant of arrest with marshals return.

4/22/77 Filed deft pre-trial motions for 1. bill of
particulars 2, discovery and inspection 3. to suppress etc....

4/26/77 Deft & atty present P.T.C. held and concluded.
Hearing on 5/5/77 bail cont'd .. CANNELLA, J.

5/13/77 Deft (atty present) hearing begun on motion to sup-
press Hearing concluded decision reserved. Trial on Wed. 6/8/77
at 10:30 A.M. R. 2704. Cannella, J.

5/13/77 - Filed Govts memorandum of law in opposition
to defts motion on identification procedures...

5/16/77 Filed stip and order to extend travel restric-
tions to permit deft to travel within States of N.Y., N.J. and Pa.
CANNELLA, J.

6/22/77 Filed bill of particulars ...

7/5/77 Filed Govt's requests for the voir dire.

7/7/77 Filed Memo endorsed on Pre Trial motions filed 4/22/77 ... There being absolutely no evidence of suggestiveness in the photographic identifications made in this case, deft's motion to suppress evidence concerning such identifications is hereby denied. So ordered. CANNELLA, J. m-n copy to US Atty.

7/13/77 Filed Govt's requests to charge.

7/20/77 DEFTS Richard Paglialonga (atty. J. Tony Serpa present) pleaded not guilty \$10,000 PRB secured by \$1,000 bail Ilene Baker (Atty Barbara Ann Rowan present) William Kacey (Atty. O.T. Wells present). JURY TRIAL BEGUN.

7/21/77 Trial contd.

7/22/77 Trial contd.

7/25/77 Trial contd.

7/26/77 Trial cont'd. Deft. Lacey's motion for acquittal under Rule 29A is granted as to count 1 ONLY. Lacey's motion for Mistrial on count 2 is Granted. Bail contd. Retrial by Judge Cannella.

7/27/77 Trial contd' and concluded Jury verdict Deft Paglialonga guilty on Ct. 1 not builty on Ct. 3 P.S.I. ordered. Sent Adj'd until 9/7/77 Bail contd. Deft. Baker not guilty Deft. Bail exonerated. Orient, J.

8/1/77 Filed govt's notice of readiness for trial.

9/6/77 Filed transcript of record of proceedings dated 5/5/77.

9/6/77 Filed transcript of record of proceeding dated 5/5/77 at 10: P.M.

9/12/77 Filed transcript of record of proceedings dated July 20, 21, 22, 25, 26, 1977.

9/12/77 Filed transcript of record of proceedings dated July 27, 1977.

9/14/77 Trial begun before Cannella, J. with a jury.

9/15/77 Trial contd. hearing begun and concluded
Dec. Res.

9/16/77 Trial contd. motion to suppress is granted.

9/19/77 Trial cont'd.

9/20/77 Trial cont'd.

9/21/77 Trial contd. and concluded JURY VERDICT
deft guilty on ct. 2 as charged. PSI ordered. Sent 10/26/77 at
10 a.m. Bail cont'd ... Cannella, J....

10/25/77 Filed notice of appeal from decision of
9/21/77 Copy to U.S. Atty. and Onro Thaddeus Wells 350 B'way NYC.
Rec'd from chambers the following:

11/07/77 filed Govt's memorandum of Law in support
of the admission of facts surrounding the Lacey Thompson Arrests
on 2/19/76.

11/07/77 Filed Deft's Memorandum of Law in opposition
to Govt's intention to offer at trial an arrest of William
Lacey with William Thompson on 2/19/76.

11/07/77 Filed Deft's request to charge.

11/07/77 Filed Govt's supplemental request to charge.

11/07/77 Filed Govt's requests to charge.

11/7/77 Filed judgment (Atty. Allen R. Bentley, present) the deft is committed to Atty. Genl. for imprisonment for a period of TWO and ONE HALF YEARS on ct. 2 Deft. placed on Special Parole for a term of THREE YEARS, to commence upon his expiration of confinement, pursuant to Ti. 21, Sec. 841, U.S. Code ... Bail pending appeal of \$50,000.00 is to be continued, and to be rewritten and posted by 12:00 p.m. on Wednesday

11/9/77 ... Cannella, J. ... Ent. 11/9/77

11/9/77 Issued commitment and copies ...

11/9/77 Before Cannella, J. - Deft did not appear (Atty. O.T. Wells, present) Application to extend posting of BOND to Monday 11/14/77 by 12 PM. granted. CANNELLA, J.

INDICTMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

EDWARD WHITE,
RICHARD PAGLIALONGA,
ILENE BAKER,
WILLIAM LACEY and
MILTON THOMPSON, a/k/a "Skip,"
Defendants.

COUNT ONE

The Grand Jury charges:

1. From on or about the 1st day of January, 1975, and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, EDWARD WHITE, RICHARD PAGLIALONGA, ILENE BAKER, WILLIAM LACEY and MILTON THOMPSON, a/k/a "Skip," the defendants, Oscar Broggi, Marcel Ferreyros, Marsha Renee Brown and Harvey Cohen, named herein as co-conspirators but not as defendants, and others to the Grand Jury known and unknown, unlawfully, intentionally and knowingly did combine, conspire, confederate and agree together and with each other to commit certain offenses against the United States, namely, violations of Sections 812, 841(a)(1), 841(b)(1)(A), 952(a), 960(a)(1) and 960(b)(1) of Title 21, United States Code.

2. It was a part of said conspiracy that the defendants and their co-conspirators unlawfully, intentionally and knowingly would and did import into the United

States Schedule II narcotic drug controlled substances, the exact amounts thereof being to the Grand Jury unknown, in violation of Sections 812, 952(a), 960(a)(1) and 960(b)(1) of Title 21, United States Code.

3. It was a further part of said conspiracy that the defendants and their co-conspirators unlawfully, intentionally and knowingly would and did distribute and possess with intent to distribute Schedule II narcotic drug controlled substances, the exact amounts thereof being to the Grand Jury unknown, in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

OVERT ACTS

In furtherance of said conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

1. On or about August 29, 1975, Marsha Renee Brown and the defendants EDWARD WHITE and RICHARD PAGLIALONGA went to Lima, Peru, to obtain cocaine.

2. In or about early September 1975, in Lima, Peru, the defendant EDWARD WHITE obtained approximately one pound of cocaine from Oscar Broggi and Marcel Ferreyros.

3. On September 5, 1975, in Lima, Peru, Oscar Broggi and Marcel Ferreyros drove to a garage which contained cocaine paste and equipment used to convert cocaine paste into cocaine hydrochloride.

4. On December 24, 1975, Harvey Cohen and the defendant RICHARD PAGLIALONGA entered Peru from Ecuador.

5. On January 6, 1976, in Curacao, the defendant ILENE BAKER received a telephone call from New York, New York.

6. On January 6, 1976, Harvey Cohen flew from Quito, Ecuador to Curacao, carrying approximately one pound of cocaine secreted in a leather suitcase.

7. On January 8, 1976, the defendant ILENE BAKER flew from Curacao to John F. Kennedy Airport in Queens, New York, carrying approximately one pound of cocaine secreted in a leather suitcase.

8. On January 8, 1976, in Curacao, the defendant RICHARD PAGLIALONGA received a telephone call from New York, New York.

9. In or about January 1976, the defendant ILENE BAKER delivered approximately one pound of cocaine to 39 Jane Street, New York, New York.

10. In mid-January 1976, at 39 Jane Street, New York, New York, the defendants WILLIAM LACEY and MILTON THOMPSON, a/k/a "Skip," gave approximately one ounce of cocaine to Marsha Renee Brown, Harvey Cohen and the defendant RICHARD PAGLIALONGA.

(Title 21, United States Code, Sections 846 and 963.)

COUNT TWO

The Grand Jury further charges:

In or about January 1976, in the Southern District of New York, WILLIAM LACEY and MILTON THOMPSON a/k/a "Skip," the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one-half pound of cocaine hydrochloride.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A) and Title 18, United States Code, Section 2.)

COUNT THREE

The Grand Jury further charges

In or about January 1976, in the Southern District of New York, RICHARD PAGLIALONGA, the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately four ounces of cocaine hydrochloride.

(Title 21, United States Code, Section 812, 841(a)(1) and 841(b)(1)(a).)

COUNT FOUR

The Grand Jury further charges:

On or about the 1st day of February, 1977, in the Southern District of New York, EDWARD WHITE, the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I controlled

substance, to wit, approximately 70 pounds of marijuana in
the form of hashish.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(B).)

s/ Lucille A. Carinci
FOREMAN

s/ Robert B. Fiske, Jr.
ROBERT B. FISKE, JR.
United States Attorney

1
2 A Yes.

3 Q Had he stayed there before?

4 A Yes.

5 Q What was your relationship with Richard?

6 A He was a partner in a business with Harvey and he
7 was also a close friend of ours.

8 Q Please tell us everything that happened from the
9 moment that Billy and Skip entered your apartment.

10 A Billy and Skip came into the apartment and walked
11 over to Richie and said, I have been looking for you, you
12 are the guy who ripped me off in L.A. Then he and Skippy
13 took out guns and they talked with Harvey and Richie.

14 Q Did you hear any of the conversation?

15 A Yes.

16 Q What was the subject matter of the conversation?

17 A Billy said that he had gotten Edward White out of
18 South America and that he was taking -- he was taking the
19 cocaine.

20 Q Where was Billy while he spoke to Harvey and
21 Richard?

22 A He was standing in front of the fireplace behind a
23 coffee table.

24 Q Do you recall anything else that was said by Billy
25 on that occasion?

2

A No.

3

Q Do you recall the subject of guns coming up?

4

A I remember the guns.

5

Q How many guns were there?

6

A Four.

7

Q How many did Billy have?

8

A Two.

9

Q How many did Skip have?

10

A Two.

11

Q How did you learn Skip's name?

12

A I think it was told to me there in the apartment.

13

Q By whom?

14

A By Billy.

15

Q Did Billy say anything else about Skip?

16

A He said he was mute and that he would act on a hand

17

signal.

18

Q After -- withdrawn.

19

After Billy asked about the cocaine, what did

20

Harvey do, if anything?

21

MR. WELLS: Objection, your Honor.

22

THE COURT: Rephrase the question.

23

Q Did Harvey carry on a conversation with Billy?

24

A Yes.

25

Q Did Harvey do anything during that conversation?

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25

RXSjc

Brown - Direct

20

A He brought out cocaine.

Q How much?

A I don't know.

Q What did he do with it?

A It was on the table.

Q What did it look like?

A It was in bags.

Q What color was it?

A White.

Q How would you describe it's appearance?

A Powder.

Q After bringing this substance out, what did Harvey do with it, if you recall?

A He gave it to Billy.

Q Did anyone ingest any of this or snort it?

A Probably.

MR. WELLS: Your Honor, I would ask that the answer be stricken.

THE COURT: Yes.

Q Did Billy say what kind of a gun he had?

A I didn't hear.

Q Do you recall anything else that happened while Billy and Skip were in your apartment?

A No.

8A

1
2 Q How long were they there all together?

3 A About two hours.

4 Q After they had left the apartment, did you see the
5 cocaine that Harvey had brought out while they were there?

6 MR. WELLS: Your Honor, I don't intend to con-
7 tinue to interrupt. Yes, I do intend. His description as
8 to whatever substance it was or properties were present at
9 that time as being cocaine, there is no foundation to
10 establish that.

11 THE COURT: There is a foundation however to
12 the effect that they said it was cocaine and that's all she
13 is saying is what they said. As far as that is concerned
14 I will allow it.

15 MR. WELLS: All right.

16 THE COURT: It's their description of it. It's
17 not hers, they are the ones that said this and she heard it.
18 Is that the fact?

19 THE WITNESS: Yes.

20 THE COURT: Do you use cocaine yourself?

21 THE WITNESS: No, sir.

22 THE COURT: Did your friends use it?

23 THE WITNESS: Sometimes.

24 THE COURT: Was it used that day during the course
25 of this?

THE WITNESS: I think so. But, I was under pressure then. I knew it was out on the table. I didn't have any.

Q What happened to that substance that was put out on the table?

A It was taken by Billy.

Q Have you ever been arrested?

A Yes.

Q When were you arrested?

A In the middle of August, 1976.

Q What were you charged with?

A With sale and possession of a narcotic, cocaine.

Q Was any one else arrested with you?

A Yes.

Q Who?

A Harvey Cohen.

Q Were you prosecuted after the arrest?

A Yes.

Q Were you prosecuted by the U.S. Attorney's office?

A No.

Q Were you prosecuted by the District Attorney's office, across the street?

A The State?

Q Yes.

1 RXSjc
2 A Yes.

3 Q What happened in that prosecution in State Court?

4 A We plead guilty to A 3 and were given life time
5 probation.

6 Q By the way, what were the maximum penalties that
7 you faced on the charge that you were arrested for?

8 A Twenty-five to life.

9 Q What was the maximum on the charge you plead
10 guilty to ?

11 A Life time probation.

12 MR. WELLS: Your Honor, my objection is because
13 it's a misstatement of the law. That type of questioning
14 elicits that type of response. That's not the type of
15 punishment --

16 THE COURT: That doesn't make any less difference.
17 After all this is a question of whether she is affected by
18 this punishment that she thinks she's facing. It's her
19 mental condition that is of interest to the jury, not the
20 fact of what the punishment is. She thinks she is on life
21 imprisonment, or rather life probation. She thinks she
22 could have gotten 25 years to life. That's what she thinks.
23 That's what is relevant in this case, not the actual punish-
24 ment. I couldn't care less what the actual punishment is.

25 MR. WELLS: The question was asked of the witness

is to connect, if it's connected, in your mind after you hear all the evidence, the cocaine involved in this case. In other words, the Government has the burden of showing beyond a reasonable doubt that the cocaine, the substance mentioned by the first witness, was in fact cocaine. That's the only purpose of his testimony, not to consider any of the other crimes involved against this defendant. He is not involved in that whatsoever.

DIRECT EXAMINATION

BY MR. BENTLEY:

Q By whom are you employed?

A New York City Police Department.

Q What is your position?

A Detective Investigator.

Q What branch of police work are you assigned to at this time?

A The New York Drug Enforcement Task Force.

Q As a detective with the New York Drug Enforcement Task Force, do you have occasion to conduct investigations in an undercover capacity?

A Yes, sir. I do.

Q I would like to direct your attention to February 4, 1976. Were you on duty that day?

A Yes, I was.

1 Q At about 3:50 P.M. that day where did you go?

2 A To Gil's Steak and Stein on Sixth Avenue and West
3 Third Street, in Manhattan.

4 Q Were you acting in an undercover capacity at that
5 time?

6 A Yes, I was.

7 Q What happened when you arrived at Gil's Steak and
8 Stein?

9 A I met a person known to me as Donald Sabella.

10 Q Shortly after that did you meet anyone else?

11 A Yes, sir. Harvey Cohen and Marsha Renee Brown.

12 Q Did you have a conversation with Harvey Cohen at
13 that time?

14 A Yes, sir, I did.

15 Q What did you say to him and what did he say to you?

16 A I introduced myself as John and asked him if he had
17 the merchandise and he said he did.

18 Q Did there come a time when you entered the bathroom
19 of Gil's Steak and Stein?

20 A Myself and Harvey Cohen entered the bathroom of
21 Gil's Steak and Stein and he handed me a white envelope
22 which I opened and observed a clear plastic bag containing
23 a white powder inside. I then gave him \$1900 of official
24 Government funds which he counted and put into his jacket.
25

1 Q I show you what has been marked as Government
2
3 Exhibit 1 for identification and ask if you can identify it?

4 A Yes. This is the plastic bag and the white envelope
5 that was given to me by Harvey Cohen.

6 MR. BENTLEY: I offer Government Exhibit 1
7 for identification as Government Exhibit 1 in evidence.

8 MR. WELLS: Objection.

9 THE COURT: Sustained.

10 Q How can you tell that this is the same substance
11 that you received from Harvey Cohen?

12 A It has my initials both on the envelope with the
13 date 2/4/76, and also on the plastic bag with the date and
14 also the date that I placed it into the envelope for sealing.

15 Q After leaving Gil's Steak and Stein, what did you
16 do with the substance?

17 A I delivered it to the Task Force office at 555
18 West 57 Street, where I waited and placed it into the
19 plastic envelope for sealing and safe keeping.

20 Q Does your name appear on the seal at one end of
21 this envelope?

22 A Yes. It does, along with the date and the case
23 number.

24 Q Shortly after -- withdrawn.

25 After sealing it what did you do with it?

1 A Placed it into the vault for safety.

2 Q A day or two later what did you do with it?

3 A Delivered it to the region chemist for analysis.

4 MR. BENTLEY: I renew my offer.

5 MR. WELLS: I renew my objection, your Honor.

6 THE COURT: Sustained.

7 Q Did you have any further conversation with Cohen
8 after obtaining Government Exhibit 1?

9 A Yes. He said he had more of the same cocaine. I
10 told him I would see how good this was and get back to him.

11 Q Did there come a time when you met with Mr. Cohen
12 again?

13 A Yes.

14 Q Is that on February 6, 1976?

15 A Yes, sir.

16 Q Where did you meet him?

17 A Again in Gil's Steak and Stein.

18 Q What happened then?

19 A Again I had a short conversation at the bar
20 and we both went back into the men's room at Gil's Steak and
21 Stein and he handed me a brown paper bag which contained four
22 plastic bags containing a white powder. At this point I
23 gave him \$7,600 of official Government funds which he counted,
24 placed in his jacket and we both returned to the bar.
25

Q I show you what has been marked as Government's Exhibit 2 for identification and I ask you if you can identify this exhibit?

A Yes. This is the four bags and the paper bag, it bears my name and the -- my initials and the date.

Q After receiving this exhibit from Mr. Cohen, what did you do?

A I delivered it to the Task Force office where it was weighed, sealed in the lock seal envelope and placed in a safe for safe keeping.

Q How long did it stay at the safe at your office?

A Until Monday, February 9.

Q Then what happened to it?

A I delivered it to the chemist for analysis.

MR. BENTLEY: I would offer Government Exhibit 2 for identification into evidence.

MR. WELLS: Objection.

THE COURT: Sustained.

Did you make a field test on either occasions?

THE WITNESS: I don't believe so.

THE COURT: All right.

Q When was Mr. Cohen arrested?

A August 10, 1976.

Q Were you present?

1 A In the striking part of the racket, yes.

2 Q Did you make any effort to determine at that time
3 whether or not this substance which Mr. Paglialonga brought
4 to you was a narcotic drug?

5 A No.

6 Q How long did Mr. Paglialonga stay in Lima after
7 bringing the substance to you?

8 A I believe he left the next day.

9 Q How long did you stay in Lima after he had gone?

10 A About another day.

11 Q Where did you go from Lima?

12 A I took the bus and went back to Guayaquil, Ecuador.

13 Q Would you describe this bus; by the way, what kind
14 of ride was this? Was this a Grayhound Scenic Cruiser?

15 A No. It was a typical South American vehicle.

16 MR. WELLS: Objection.

17 THE COURT: Sustained.

18 MR. WELLS: I don't know what that means.

19 A An old Chevy bus that was, with a roof rack --

20 MR. WELLS: The question and answer is totally
21 irrelevant.

22 THE COURT: I don't see the relevance. Sustained.

23 Q What happened to the white powder after it was given
24 to you by Paglialonga?
25

A It was packed, We inserted it into the sides of a valise and glued the lining in.

Q Who carried that valise after the powder was secreted inside?

A I did.

Q Did you carry it with you on your trip from Lima to Guayaquil?

A Yes, I did.

Q Were certain stamps placed in your passport on the return trip from Lima to Guayaquil?

A Yes.

Q Would you please indicate on 27A by writing leaving Peru and entering Ecquador?

A Yes.

Q Was there any search conducted by the border authorities of you as you crossed the border between Peru and Ecquador?

A No.

Q After arriving in Guayaquil, did you meet anyone there?

MR. WELLS: Objection, your Honor.

THE COURT: What if anything did you do?

Sustained.

THE WITNESS: I checked back into the same

- 1
2 Q Via anything else?
3 A Caracas also.
4 Q In other words, he left Quito and leaving you
5 behind in Quito, is that correct?
6 A Correct.
7 Q Who had the suitcase containing the white powder?
8 A I did.
9 Q Where did you go from Quito?
10 A Curacao.
11 Q Did you have the suitcase with you at that time?
12 A I did.
13 Q Did you meet anyone in Curacao?
14 A I met Richard Paglialonga and Ilene Baker.
15 Q What did you do with the suitcase while you were in
16 Curacao?
17 A I exchanged suitcases with Ilene Baker.
18 Q Where did you do that?
19 A In a hotel.
20 Q I beg your pardon?
21 A In a hotel room in Curacao.
22 Q Whose hotel room was this?
23 A Ours.
24 Q Ours being who?
25 A Ilene Baker and myself.

2 Q When was that?

3 A I don't remember the exact date. Early in January.

4 Q Where did you go?

5 A I went to Aruba, the next island.

6 Q Was your passport stamped leaving Curacao and
7 arriving in Aruba?

8 A Yes.

9 This says arriving in Curacao. This must be leav-
10 ing.

11 Q How long were you in Aruba, sir?

12 A Just two days.

13 Q Until what date?

14 A The 10th.

15 Q Of what month?

16 A January.

17 Q What year?

18 A That was 1976.

19 Q Did Ilene Baker stay with you those two days in
20 Aruba?

21 A No.

22 Q Where did the plane go from Aruba after --

23 A New York.

24 Q Did Ilene stay on the flight?

25 A Yes.

- 1
2 Q Who had the suitcase containing the white powder?
3 A Ilene Baker.
4 Q When the plane left Aruba did you see Richard
5 Paglialonga in Aruba?
6 A When I boarded the plane he was on the plane.
7 Q Where did that flight go?
8 A New York City.
9 Q Did either of you have any narcotics at that
10 time?
11 A No.
12 Q After arriving in New York City, what did you and
13 Richard Paglialonga do?
14 A We went to my apartment.
15 Q Where was that apartment located?
16 A Jane Street, Manhattan.
17 Q The number?
18 A 39.
19 Q By the way, you also indicated a moment ago the
20 stamp for leaving Aruba, did you not?
21 A I did.
22 Q 27A.
23 When you arrived at your apartment, did you see the
24 suitcase in which the white powder had been contained when you
25 last saw it?

1
2 Q I proceeded to weigh it into one ounce glassine
3 envelopes.

4 Q Before that did you do anything to determine the
5 nature of this white powder?

6 A I weighed it and I tasted it.

7 Q What did it taste like?

8 A It tasted like cocaine.

9 Q Had you tasted cocaine before?

10 A On occasions, yes.

11 Q How many one ounce packages did you come up with
12 when you weighed the cocaine and put it in the sealed pack-
13 ages?

14 A About sixteen or so.

15 THE COURT: You are not talking loud enough.
16 You are dropping your voice.

17 THE WITNESS: Between sixteen and seventeen one-
18 ounce bags.

19 Q Did the cocaine in the suitcase weigh out to an
20 exactly even number of ounces?

21 A No, it didn't.

22 Q How much was left over after you had made up as
23 many full ounce packages as you were able to?

24 A A bit less than a half ounce.

25 Q What did you do with the half ounce or less

2 that was left over?

3 A I packaged it in a bag just similar to the
4 one ounce bag. I put it all together.

5 Q What was the next thing that happened with
6 respect to this cocaine after you had placed it in the one-
7 ounce packages and put it all together somewhere?

8 A I received a phone call.

9 Q How many times had you talked to the caller or
10 have you talked to the person who called you on the phone?

11 A Never.

12 Q Had you talked to that person on the phone since
13 then?

14 A One other time.

15 Q Had you met that caller in person before the call?

16 A One occasion about a year previous.

17 Q Since the call how many times had you met him and
18 spoken with him?

19 A Just once.

20 Q Are you sure of that?

21 A Relatively sure.

22 Q Based on your calls and face to face meetings with
23 this person are you able to tell us the first name of the man
24 who called you on the telephone about the cocaine?

25 MR. WELLS: Objection your Honor.

1 can't recall the precise conversation, but it was essentially
2 Billy said I know you have been to South America and that
3 you brought back some cocaine. And that -- I said well
4 Edward sent us on the trip, proposed the trip and planned the
5 itinerary. He said we would get paid a certain sum of money
6 if we retrieved it and brought it back. So he said well,
7 he had spent a great deal of money to bail Edward out of jail
8 in South America and he felt he wanted to be reimbursed
9 for that expenditure and therefore he asked for enough for the
10 cocaine or as much as he felt would be remuneration for his
11 expenses.
12

13 Q Did you notice whether or not Billy and or Skip had
14 anything unusual in their possession while they were in your
15 apartment?

16 MR. WELLS: Objection to the form of the question
17 your Honor.

18 THE COURT: Sustained as to form.

19 What if anything did you observe about these
20 individuals while they were in the apartment?

21 THE WITNESS: At first, nothing unusual, just
22 they stated their business and I understood their request
23 and I was willing to comply with it.

24 THE COURT: Later on did you see anything?

25 THE WITNESS: Later on guns came out. And

everybody got a little bit --

MR. BENTLEY: Don't tell us how people reacted, sir.

Q How many guns, you mentioned guns?

A I saw four guns.

Q How were they distributed as between Billy and Skip?

A Each had two. At first one each. But later more or less to display the others after the transaction had been completed where I gave them what they requested, more or less showed the other guns just to --

Q When it was one each, where were the guns that you saw?

A In shoulder holsters.

Q Were any guns drawn?

A Yes.

Q Please tell us if you can recall anything else said by Billy during the early portions of this conversation.

A He said something to the effect that Richie, Richie Paglialonga was -- he knew that he was from California, that he lived in California and that he -- that somebody from California in the past had done him some wrong and that he was angry at that person. He thought that Richie was the person. But later he said you are not the person. It was a

1 A As I said, I told him that Edward had told us
2 that he was, it was his trip and that he had financed it
3 and that he was going to pay us for retrieving it and that
4 he had planned the itinerary when we went and that he said
5 we should lay out the money for tickets and expenses and we
6 would be reimbursed when we returned.

7 Q Did you say anything else at that point?

8 A No. That was essentially the conversation.

9 Q Did Billy say something at that point in response to
10 your response?

11 A He said something to the effect that it was Edward
12 who was arrested down there and that he needed help and that
13 Billy had gone to his assistance and gotten him a lawyer and
14 gone through considerable expense to free him. The charges
15 actually were, as it turned out, there was no cocaine or any-
16 thing found. He was released after a few months. But he
17 felt that he should be reimbursed for his expenses. It seemed
18 like a logical, to me a logical request.

19 THE COURT: Strike that.

20 MR. WELLS: The last part.

21 THE COURT: Strike his mental operation.

22 THE WITNESS: I'm sorry.

23 THE COURT: The jury is instructed to disregard
24 that.
25

1 Q Then what happened?

2 A Then I gave him about half, about seven or so
3 ounces, one ounce bags of the white powder, explaining that
4 some of it had been destroyed in the burying, it had sat in
5 a hole in Lima on a cliff for three months. A rock had
6 punctured one of the bags and had destroyed it, a good part
7 of it and that the amount that we retrieved was just barely,
8 covered our expenses that we had laid out.
9

10 Q Was that the truth to your knowledge?

11 A To a great extent it was.

12 Q What about the bag getting punctured while it was
13 buried in Lima?

14 A I didn't dig it up. So I don't know. This was
15 what Mr. Paglialonga told me.

16 Q What was done if anything with any of the one ounce
17 bags that you brought out after Billy had demanded some of
18 this cocaine?

19 A One bag was open just to see if the contents were,
20 you know, was truly cocaine.

21 Q How did you do that?

22 A Some was dumped out on a mirror on the table and
23 snorted.

24 Q By whom?

25 A I think Billy took a little and I took a little.

Q Had you ever seen the individual you have identified as Skip before that visit?

A Never.

Q Have you ever seen him since?

A No, sir.

Q Do you know his last name?

A No.

Q Did there come a time when you heard from Billy again after the visit in January, 1976, in the evening?

A I believe it was the day or day after the next day or two after he had left, he called and said that one of the bags was not an ounce, it was light. And he would like to come back and exchange it for a full ounce.

Q What did you say?

A I said certainly. I hope that you don't bring your friend with the one eye again. He said no, it's okay he will come by himself. I said certainly.

Q Did he come by to the apartment?

A He did.

Q When he came by on that occasion was anyone else present?

A No.

Q Please tell the jury what happened?

A We made the simple exchange, he gave me a bag of

1 glassine envelope with, there was a piece of masking
2 tape, adhesive on it that said ten and a half grams, I think,
3 which was considerably less than half an ounce and I gave him
4 a one ounce bag in exchange and apologized that in the con-
5 fusion I had not, I had overlooked the fact that one bag was
6 light.
7

8 Q How many grams are in an ounce?

9 A Twenty-eight.

10 Q Approximately how much cocaine was left in your
11 apartment after Billy and Skip left that evening?

12 A Maybe eight ounces.

13 Q How much of that did you retain?

14 A Me personally?

15 Q You and Marney.

16 A About five.

17 Q What did you do with the five ounces that you had?

18 A Most of it I sold.

19 Q What happened to the other quantity, if you know?
20 You said you retained about five. That would be three.

21 A Presumably Mr. Paglialonga took it, but I was
22 asleep and when I got up the next day he was gone.

23 Q The day after the visit from Billy and Skip?

24 A Yes.

25 Q Your five ounces, did I ask you how you disposed

1 A Yes.

2 Q She didn't do anything?

3 A No, sir.

4 Q You said you weighed it. You had scales in the
5 apartment?
6

7 A I had a scale, yes.

8 Q A scale.

9 You had scales for the purposes of weighing drugs,
10 am I right?

11 A From the hashish, yes.

12 Q You had all the equipment and paraphernalia
13 necessary to package and to put the drugs in some posture --
14 condition for street sale?

15 A I had a scale and bags, yes.

16 Q Now, how many bags did you eventually make or did
17 it come out to?

18 A Maybe seventeen or so bags. About seventeen or so.
19 I don't recall the exact number.

20 Q Your procedure was to take the bag out of the suit-
21 case, empty them on the scale and weigh it and put it into
22 one ounces?

23 A Yes.

24 Q You did this all yourself?

25 A Yes.

1
2 and some overture made by you to these police officers to
3 cooperate?

4 A That is true.

5 Q Was that on the same date of your arrest?

6 A It was.

7 Q Immediately after you were arrested you then turned
8 and you offered yourself to cooperate?

9 A True.

10 Q Did you offer as part of your cooperation the
11 returning of the seventeen thousand dollars that you had
12 received?

13 A No.

14 Q When you were indicating that you were going to
15 cooperate this was done to Mr. DeRosa, Detective DeRosa?

16 A Yes.

17 Q And at that time you had no attorney?

18 A Excuse me?

19 Q You didn't have a lawyer at that time, did you?

20 A I did. Yes.

21 Q At that time when you first --

22 A At the immediate point of arrest I had not a lawyer.

23 Q At the immediate point where you said you would
24 cooperate, did you have a lawyer?

25 A No.

1
2 A Not ten years ago, no.

3 Q This was for your own use, et cetera?

4 A Yes.

5 Q For the last five or six years, Marney Brown,
6 when she had lived with you, you were aware that she was
7 receiving disability payments from the Department of Welfare?

8 A Yes.

9 Q She had a mental disability?

10 A Yes.

11 Q She had been declared to be permanently disabled
12 mentally, is that right?

13 A Yes. Psychological disability.

14 Q So that her disability was not for any physical
15 infirmity or the cause of any organ malfunction but
16 because of a mental reason?

17 A That's right.

18 Q You mentioned that you had taken certain drugs for
19 the purposes of experimentation. Did you take heroin for
20 experimentation?

21 A On about three occasions in my life.

22 Q You took amphetamines for experimentation, right?

23 A Yes.

24 Q Did you have occasion to transcribe or record your
25 experiences as a researcher on the use of and the effect of

1
2 drugs?

3 A I did.

4 Q Was that research say embodied in a book written
5 by you called the Amphetamine Manifesto?

6 A Correct.

7 Q I show you Defendant's Exhibit A for identifica-
8 tion, this paperback book. Is this the book?

9 A That's the book, yes.

10 Q You can open it if you wish.

11 A Allright. I commend you for having a copy of it,
12 it's almost out of print.

13 Q Thank you for your compliment. The picture that
14 appears on the cover, is that Marney Brown?

15 A That is.

16 Q Does your picture appear in it?

17 A It does.

18 MR. WELLS: At this time your Honor, I have an
19 offer to make. Would you prefer that I do it at the bench?

20 THE COURT: My ruling would be the same. I haven't
21 changed my mind on it.

22 MR. WELLS: It may be different.

23 THE COURT: If you have anything to add, come on
24 up.

25 (At the side bar.)

the other people who were already in the apartment?

A Yes, sir.

Q Would you please tell us everything you can recall being said by the participants in that conversation?

A As I can remember, it was mostly something to do with the powder, the cocaine. To tell you the truth, I was so scared myself of the vibrations in the room that I sort of closed everything off. I was just a nervous wreck because first of all I didn't want anything to do with this --

MR. WELLS: Objection.

THE COURT: Don't tell us the personal feelings. Let's go back to square A. The question is: what do you remember, regardless of what your condition was?

THE WITNESS: Mostly I can remember --

THE COURT: Was anything said about Eddie for example?

THE WITNESS: Not that I recall.

THE COURT: You don't remember?

THE WITNESS: No, sir.

THE COURT: What do you remember being said?

THE WITNESS: Who owned the cocaine, the distribution of this cocaine. And it was not my scene. I didn't listen really. I had nothing to do with this, all right?

1 RXSjc
2 Q You mentioned a name, Billy --

3 MR. WELLS: No. Objection your Honor.

4 THE COURT: Take it easy, Mr. Wells. You may be
5 needing Valium if you keep practising like that. That's
6 not good. You shouldn't get that excited. Don't lead the wit-
7 ness. Don't suggest anything like that.

8 Q Was anything said to you by, specifically by any
9 one during this conversation?

10 A As I remember I was not allowed to leave the house
11 because the parties involved believed I was somebody that
12 they thought I was. It was a misunderstanding more than
13 anything.

14 Q What did they say to you in terms of who they
15 said you were?

16 A Something in relation to somebody in California
17 who had ripped them off some years back and I think it was
18 just jive. I think it was just to keep me there.

19 Q Don't give us your opinion, sir.

20 A I will try to keep it together.

21 Q Do you recall anything else about the conversation?

22 A Mostly it was who owned the cocaine.

23 Q Who else was present in the apartment besides your-
24 self, before these callers arrived?

25 A Harvey Cohen and Marney Brown.

Q How many callers were there?

A I believe two.

Q Did you learn their names at any point?

A No, sir.

Q Can you describe these two individuals?

A It would be very difficult. It would be very difficult because I only met them one time. The apartment was lit like a dungeon. You could hardly see. There was one little light that was shining on top of the cocaine for their analysis. But as far as looking at them, I was too scared even to look in their eyes. Usually that's what I do anyway, but, it was fear --

MR. WELLS: I object to everything he said to be stricken from the record.

THE COURT: Let me hear the question again.

(Record read.)

THE COURT: Strike the answer. Your answer to that would be no?

THE WITNESS: Yes, sir.

Q How long were these individuals in the apartment?

A Roughly an hour. You know, I could be off.

Q How far away from them were you during their visit most of the time?

A As I recall one man was 30 feet away from me. The

2 other man was sitting at the table, pretty close.

3 THE COURT: Were you at the table?

4 THE WITNESS: Yes.

5 THE COURT: How big was the table?

6 THE WITNESS: It was a round table.

7 THE COURT: Four or five feet in width?

8 THE WITNESS: So, so. Six feet.

9 THE COURT: Who else was sitting around the table?

10 THE WITNESS: Harvey, Marney, myself and this
11 other man. This big guy.

12 THE COURT: Did you happen to notice his facial
13 appearance?

14 MR. WELLS: I missed part of his answer to you,
15 your Honor.

16 THE COURT: Would you read it back?

17 (Record read.)

18 THE COURT: I will withdraw my question. You go
19 ahead, Mr. Bentley.

20 Q Can you estimate the age of either of these men?

21 A No, sir.

22 Q At one point one of them spoke directly to you?

23 A Just at that point when they thought I was somebody
24 in California.

25 MR. WELLS: Objection.

THE COURT: Just a minute. Mr. Paglialonga,
if you can answer a question yes or no, do it, all right?

Now listen to the question and if you can't answer
it yes or no then make whatever explanation that you wish.

THE WITNESS: Yes.

THE COURT: The Reporter will read the question.

(Record read.)

A Yes, sir.

Q How long were you sitting at the table with Harvey,
Marney and the individual who was seated at the table?

A Roughly an hour.

Q Did this man mention his name?

A Not to me, sir.

Q Did anyone?

A I didn't hear a name.

Q Did he mention the name of the other individual?

A No, sir. To my knowledge I didn't hear anything.

Q What was done with the white powder that was
brought out?

A I have no idea. You mean -- it was on the table.

MR. WELLS: Objection.

A What was done with it?

THE COURT: Repeat the question to him.

(Record read.)

1
2 A That was on the table and they were analyzing it,
3 doing something with it.

4 Q What did they do with it?

5 A They were tasting it.

6 THE COURT: Let the record show that he
7 indicated with his left hand, the licking of his finger.

8 Q Did either of these individuals have anything unusual
9 in their possession during their visit that you saw in the
10 apartment?

11 A No, sir.

12 Q Did you see any guns in the apartment?

13 A I didn't.

14 Q You testified that you were in fear?

15 A Yes.

16 Q Would you care to explain what you saw or heard
17 that made you in that state?

18 MR. WELLS: Objection.

19 THE COURT: Sustained.

20 Q Did you hear any discussion of guns?

21 A No, sir.

22 Q Did you hear the name Edward mentioned?

23 A No, sir.

24 Q After these individuals left, what happened to the
25 powder that was on the table?

A I have no idea. I left.

Q Was the powder on the table when they left?

A When they left I was upstairs.

Q Did you have a conversation with Harvey Cohen after they had left?

A Briefly.

Q Did Harvey Cohen ever mention the name Richard Connerty to you?

A No, sir.

MR. BENTLEY: Nothing further your Honor.

MR. WELLS: I have some questions, your Honor.

THE COURT: Yes.

CROSS EXAMINATION

BY MR. WELLS:

Q Mr. Paglialonga, good morning. Is that the correct pronunciation of your name?

A The American pronunciation.

THE COURT: The "G" is silent. Pronounce it without the "G".

MR. WELLS: I will do my best. If you understand, I have a Harlem influence.

THE COURT: I was born in Harlem on 118 Street so you are used to hearing Italian names up there. It's a lovely Italian name.

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A Well, I first did generally screening tests to determine if drugs were present and as a result of my screening tests I was able to identify that cocaine was present.

After doing a number of general screening tests, I did more specific tests and positively identified cocaine being present.

Q What were the more specific tests?

A Well, I did infrared analysis and crystal tests for cocaine which are very specific.

Q What were the results of your findings with respect to the net weight of the white powder in Government's Exhibit One?

A This exhibit, Exhibit One contains, this was 27 grams of powder and cocaine and starch.

Q Were you able to determine the percentage strength of cocaine vis a vis the percentage of starch in this exhibit?

A Yes. I did a quantatative analysis and I found that there was 82.3% cocaine hychloride present in this powder.

Q The rest was?

A Starch.

MR. BENTLEY: At this time I offer Government's Exhibit 1 for identification into evidence.

(Time noted 4:30.)

THE COURT: I got a note from the jury which reads, we are hopelessly deadlocked. So, I am going to send them back in again for some further deliberations.

I think that it may be worthwhile to let them go home at this date and come in tomorrow morning and deliberate rather than keep them now.

MR. WELLS: Your Honor, may I, at this time, based upon the note that the Court has received, move for a mistrial and have my request that the jury be discharged?

THE COURT: You want to try the case a third time? That seems to be an awful lot of effort and expense to go through another trial.

MR. WELLS: It appears to me as I think to the Court also that it is a simple issue. There is only one count.

THE COURT: I know.

MR. WELLS: Whether they believe Cohen or Brown or whatever.

THE COURT: Apparently some of them believe one and some are not convinced. You will never change that.

MR. WELLS: I think if there are any number or number that say I disbelieve him and another says I do believe him, I don't see where an explanation of the laws will

2 I said may be. I know what you are saying, it could be
3 nolle prosequi too, right, or it could be abated by death
4 or something. These are things that can happen.

5 MR. WELLS: One that would bring more of a feeling
6 of happiness in my mind would be a nolle prosequi.

7 THE COURT: I realize that.

8 I am going to use the charge suggested by Labuy
9 in Section 7.07, the Manual on Jury Instructions.

10 All right, bring the jury in.

11 (Jury enters the courtroom.)

12 (Time noted 4:35.)

13 THE COURT: I have a note which reads or maybe I
14 should have said that I had a note. Here it is.

15 We are hopelessly deadlocked, and it is signed by
16 the foreperson. I want to compliment the jury for the
17 serious manner in which are you attending to your chores in
18 this case. I will indicate to you just as a trivia matter
19 that I have been in this business for about 29 years, fifteen
20 years in the State court and fourteen years here in the
21 Federal court. I have been dealing with juries during that
22 time. It is not unusual for a jury to feel that they have
23 reached the end of the road. In this case, which is
24 essentially a very simple case your duties are really simple in
25 nature, although they may be hard to perform. There is

essentially, in the case, a very serious question of fact which must be decided by you. I suppose in a layman's terms you would say well you either believe the Cohen's and the Brown's or you believe the fact that the case has not been proven beyond a reasonable doubt. I can understand the note coming in. But you realize that you have only been out less than two hours on a case that's taken a number of days to try.

In the large number of cases absolute certainty can not be expected, although the verdict must be the verdict of each individual juror and not merely acquiescence in the conclusion of others, yet you should examine the question submitted with proper regard and of deference for the opinion of others.

You should listen to each other's opinions with a disposition to be convinced.

It is your duty to decide the case if you conscientiously can do so. If a much larger number of jurors favor conviction, a dissenting juror should consider the reasonableness of his doubt when it makes no impression upon the minds of the other jurors, equally intelligent and impartial and who have heard the same evidence and taken the same oath.

If, on the other hand, the majority favors acquittal

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2 the minory should ask themselves whether or not they might
3 not reasonably doubt the correctness of their judgment.

4 Likewise the jurors in the majority faring a
5 finding for either party should ask themselves whether they
6 might not reasonably doubt the correctness of their judgment
7 when it makes no impression upon the minds of the minority
8 jurors.

9 That is repetitious. If you should fail to agree
10 on a verdict, the case may be retried. Any future jury
11 that may be selected must be selected in the same manner
12 and from the same source as you have been chosen. There is
13 no reason to believe that the case would ever be submitted
14 to twelve men and women more competent to decide it than
15 you, or the case can be tried any better or more exhaustively
16 than it has been tried here already or that more or clearer
17 evidence could be produced on the behalf of either side.

18 I would suggest to you the following procedure.

19 I know for example that today is Election Day in
20 New York City, and that probably some of you have in mind
21 that you must go and fulfill your duty as a citizen. That may
22 be to some degree disturbing you and also I know that there
23 has been really very little deliberation in this case compared
24 to the seriousness of the matter and the fact that you should
25 not rush into the matter, one way or the other.

(Recess.)

(The jury sends out a note.)

(Time noted 2:30.)

THE COURT: The note in this case that I just got from the jury says they are unable to reach a verdict.

As I understand it you are moving for a mistrial based on the fact that they have said this a second time now.

MR. WELLS: Considering the fact that this is a one-count indictment, with one defendant, with a simple issue of fact, as to whether they believe the two witnesses in this case or they disbelieve it, if there were complicated issues involved, I could see that further deliberation would be necessary. Since they have been out since about 12:45 yesterday and they have deliberated between that time and now and overnight and today --

THE COURT: They actually didn't deliberate that long. I sent them out to lunch at about five to one and they didn't come back until about 2:30. Then I sent them back about a quarter after four. They have been here this morning. They started deliberation actually about 10:15 because one of the jurors didn't get here until around that time.

MR. WELLS: I am sorry Judge. During the interim period they sent out several notes. One particularly covered almost extensively the gravamen of the prosecution's case,

on the criminal case continue until after you have selected a jury in the civil case and then the panel can be excused and the new jury can be sent back to the jury room. The jury on our case could be brought out. I would also ask that the Court's instruction that was given at the end of the day yesterday be read back to the jury.

MR. WELLS: My position there would be --

THE COURT: Suppose all of that is done, how long would you continue after that?

MR. BENTLEY: I wouldn't go beyond the end of the day.

THE COURT: You are saying five o'clock. I have to go to a meeting at four o'clock.

MR. WELLS: I think any further Allen charge or any other charge similar to that, that indicates or directs them to continue deliberating after the second note, indicating their impossibility of reaching a verdict is in a way coercive with the simple issues involved.

THE COURT: I feel that the jury has not deliberated as long as they should in a case like this before they come to this conclusion that they are deadlocked to the point where they can't reach agreement. If we don't reach an agreement by five o'clock then I am going to declare a mistrial. In the meantime I will indicate to them in the same short fashion

that I did yesterday what is involved, with the so-called Allen charge. This is done with an exception to the defendant as to the Court's ruling.

This jury does not go in the hall or come in here, the jury comes in from the back and comes in here. This courtroom will be cleared and the people will be told to wait in the hall until such time. This is not going to take that long, until such time that we are prepared to go ahead.

Put them in the witness room and the others in the hall. I will make an announcement that they are not to talk to each other at this time about the case.

(Jury enters the courtroom.)

THE COURT: Members of the jury, in analyzing how long you have been deliberating in this case this morning, I asked you to come here about 9:30 if you recall, but we actually didn't get started until about quarter after ten. Some one was delayed. I never ascertained why because I didn't think it was important. You then went out to lunch around one o'clock and you returned after two. When I got this note it was about 2:35. Actually you have not been out that long today. So I feel that you should continue to discuss this case with the hopes of coming up with a verdict that's in conformity with your convictions and your conscience. I am going to repeat what I said to you yester-

when you left, because of the interval in time, to refresh your recollection as to this particular area.

In the large portion of cases absolute certainty can not be expected, although the verdict must be the verdict of each individual juror and not mere acquiescence in the conclusion of others. Yet you should examine the question submitted with proper regard and deference to the opinion of each other and you should listen to each others opinion with a disposition to be convinced. It is your duty to decide the case if you can conscientiously do so.

If a much larger number of jurors favor conviction a dissenting juror should consider the reasonableness of his doubt when it makes no impression upon the mind of the other jurors equally intelligent and impartial and who have heard the same evidence.

If, upon the other hand, the majority favors acquittal, the minority should ask themselves whether they might not reasonably doubt the correctness of their judgment.

Likewise the jurors in the majority favoring the finding for either party should ask themselves whether they might not reasonably doubt the correctness of their judgment when it makes no impression upon the minds of the minority jurors, who, as I have indicated before, are equally intelligent and impartial and have heard the same evidence.

1
2 Should you fail to agree in this verdict that is not
3 the end of the case. It may be retried. And any future jury
4 must be selected in the same way you were selected from the
5 same source of jurors that you have been selected and there
6 is no reason to believe that the case would ever be submitted
7 to twelve men and women who are more competent to decide it
8 than you or that the case would be tried any better or exhaust-
9 ively than it has been tried here or that there is any more
10 or clearer evidence that could be produced on behalf of
11 either side.

12 For that reason I suggest to you that you give it
13 further consideration and I thank you for doing that as I
14 have thanked you for what you have done in the past.

15 You are excused at this time to return to deliber-
16 ate.

17 (Jury leaves the courtroom.)

18 (Time noted 2:45.)

X 19 THE CLERK: This note is Court's Exhibit 10.

20 (So marked.)

21 THE COURT: Let it be indicated that Mr. Wells is
22 objecting and I have done this with an exception to the
23 defendant.

24 MR. WELLS: Yes.

25 THE COURT: All right.

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and in effect directing them to reach a verdict that may very well be unfavorable to the defendant in which case there would be a frustration of justice.

I would ask the Court at this time, accordingly -- the actual time being eight minutes after five o'clock p.m. -- that the Court would declare a mistrial and discharge this jury.

THE COURT: I decline to do so with an exception to the defendant.

MR. WELLS: Thank you.

(Jury enters the courtroom.)

THE COURT: It is ten after five and rather than keep you here to continue to deliberate at this time, I am going to excuse you and you can go home at this time.

Remember that you may not discuss this case while you are home or on the way or with any one else.

Come back tomorrow morning at ten o'clock and I make it ten o'clock because apparently somebody got fouled up and came in late this morning. Rather than telling you to come up earlier and getting fouled up any how, please come at ten o'clock.

As I say, keep your mind open until tomorrow and then we will continue on with the case tomorrow.

(Jury excused.)

(Time noted 5:10 p.m.)

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

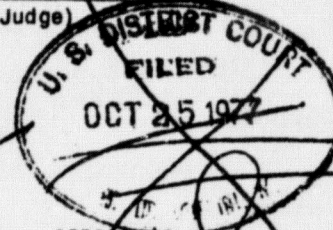
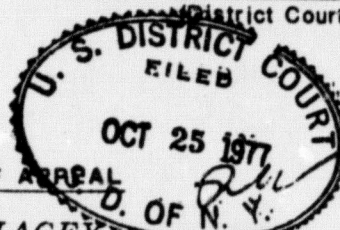
Docket Number 77 Cr. 210 (JMC)

-v-

WILLIAM LACEY

JOHN M. CANNELLA

(District Court Judge)



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the United States Court of Appeals for the Second Circuit from the ☒ Judgment ☐ order ☐ other

(specify) _____ entered in this action on _____ (Date)

OZRO THADDEUS WELLS
(Counsel for Appellant)

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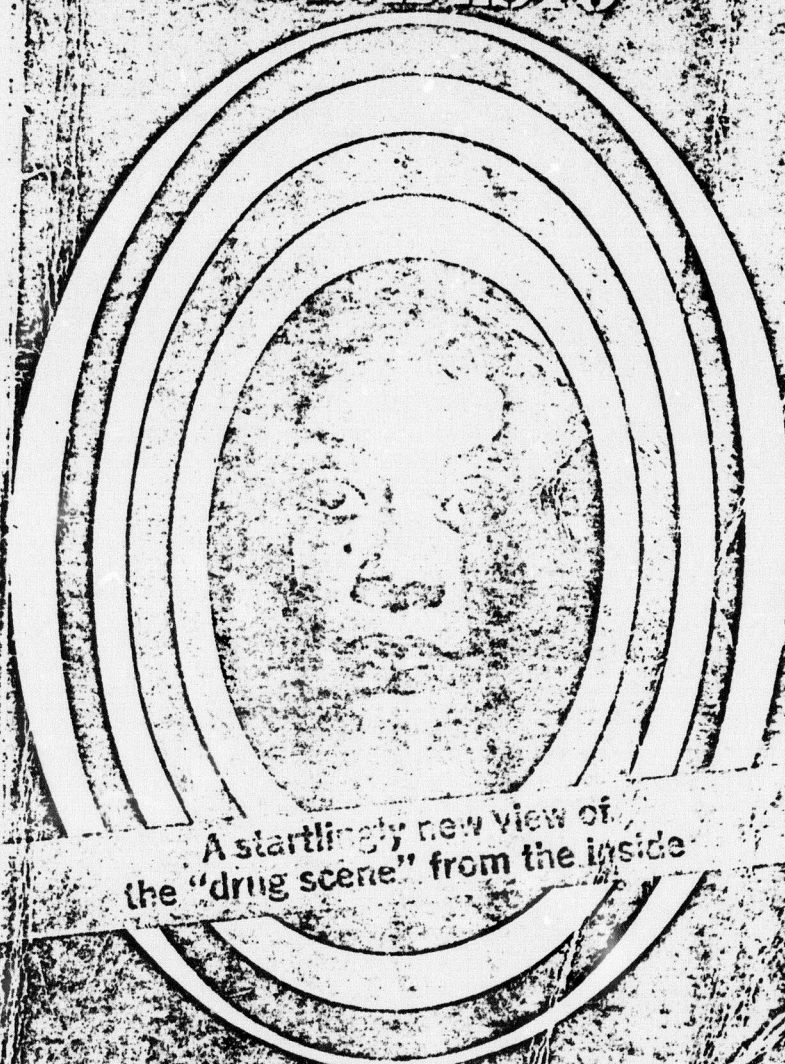
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THE AMPHETAMINE MANIFESTO



A startlingly new view of
the "drug scene" from the inside

BY HARVEY COHEN

Harvey Cohen

A dope fiend, a train robber ran down the wrong drainpipe. Can you love me left-handed? Outlaw, inlaw, sidewalks are holy. Get off on the twilight side. If you've got a make-believe ballroom, let's dance. I have too much grace to stay in this place. If you believe in the hereafter, give me what I'm *here* after. Blackmail! I've been having coffee breaks all over town playing with your New York mind. I'm brainwashed. Oh, my gosh! I must have been handcuffed to ignorance. I had a crush anyway. I live in the East but meet the West with strange outcries.

There were many times in my life when I was on a pivot, a pinnacle of choice. I was playing dangerous games, dependent upon elemental chemistrations—not to be found in nature—to get the last laugh. An ineffectual surprise attack on the universe.

Up to then, I had been snorting coke or dropping a little powder or a couple of tablets into my Carnation Instant Breakfast. I always had some kind of preordained structure, but drugs will get you, no matter how hard you try to outsmart them. A dope habit has a life of its own. As soon as I was physically within the city, I realized I would start using. There was never any conflict; it was a life choice. The very day I got back to New York I copped immediately.

Amphetamine is very much an over-achiever's type of chemical. I started shooting it when I was working so I could cope with work. I felt there was a kind of line drawn; on that side was all the crap that I worked with, and on this side was me. I'd wake up in the morning, I'd get off, fire myself out of bed and out of the apartment, into the subway and into work. I'd go home for lunch hour, shoot up, and come back in spaced.

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The Amphetamine Manifesto

I consciously stepped out of the structure, the programmed life, although terrified at the prospect of getting up each day with no means and no solutions.

I phased myself out of jobs. Felt weird standing there in a suit, too many telephone numbers in my head. It was a double face I presented to the world. I spaced out, disintegrated as energy. After I died my memory lived on, disunited with my body so I had no capacity to be creative. I was a memory bank, the memory bringing units of information into consciousness, the phantasms of experience.

Shooting speed was something that I couldn't structure or intellectualize; I had to meet drugs on their own terms. I had a few values a few friends, my own physical need for drugs and a life-style of revolutionary change. I woke up every morning without any money and with no set plans. One of the magic minority, I entered the drama.

Got into xeroxed scripts for injectible liquid methedrine, ampules of D-desoxyphedrine hydrochloride. I was so wired on it, I didn't come down for six months. Monomania. I saw bugs on the sidewalk. Picking moles off my arm in the dark thinking they were bugs swatting things on the wall that weren't there. Why should I let myself get sucked in by the paranoia, I'm stronger than the speed. You get high to feel good, why invent more things that don't exist? It's masochistic. You think the whole world is out to get you because you're out to get yourself. You get a lot of projections but you get perceptions, too. You have to learn the difference. The paranoia is guilt projection. There are always police parked down the block. Systematic delusions; one delusion proves the next.

Methedrine rolls back the stone from the mouth of the cave. It's the most profound of all drugs, the most unexplored and the freakiest. It can be so many things; there's always a place to go behind methedrine that you've never been before. I saw genies pop out of bottles, people fly on magic carpets. I saw little white men come out of the gas oven.

Shooting up every day, I went from one disaster to the next.

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Couldn't take the danger out of life, nor the necessity. Living with the disabling aspects of speed, the euphoric sense of well-being, the Godlike sense of no limits, the conceptual trap of paranoia. I experienced God, I felt I was God. Unified with all the powers, I felt absolute divine total unity between desire and experience, between perception and ambition. Everything I wanted was available to me, there were no limitations; I want, therefore it is.

I had a block. I avoided the problem of the aggression, the fear, the terror, the hallucinations, the existential now. I reached a point where I realized that experience was not reality. I could stand outside of the emotion I was feeling and do what was necessary. I could put out aggression to be on top of the situation. The self was divided from experience, the self rose above it and evaluated the elements of survival.

Methedrine was a limitation of the flesh. I abstracted myself from my flesh, from pain. I went out with this girl; she'd gotten into a sex thing about getting off. I got her off, I shot her up, the sex thing was transferred into a masochist thing. Every time I'd get off, she wanted to get off. After I hit her, we'd wind up in bed.

Drugs and the adventure, the uncertainty, the excitement and power are appropriate to youth. You have a lot of energy and time to spend, personal appetites are tremendous, everything seems limitless. There's a period of terrifying freedom and then you seek fences, you provoke the madhouse or the jail, you end up in confinement. After institutionalizing, you re-relate to the drug. It's very humbling. The block of methedrine is one of the most subtle and deceptive puzzles. There are overwhelming temptations built into it—the temptation of power, the ultimate riddle of humility.

Meth heals the flesh, burns out a cold, increases adrenalin, numbs pain, helps release pent-up feelings. It makes you sad, you want something—a quest, a love, an adventure.

Eroticism and methedrine. When I was using commercial liquid it became like an aphrodisiac; it tightened up the muscles and fired up the sensations and the pathways of the nervous system, it unmitigated and unlocked the passageway to the libido.

There is no filter, there is no blocking, no fear, no censor.

On methedrine you are capable of any form of erotic behavior. Receptively open, you are emotionally free from your conflicts and your fears. Your imagination is erotically stimulated. The drug works on the mind which then sensitizes and sensualizes the body.

A syndrome of the lower-echelon speed-freak: they get young boys, overamp them out of their minds and ball them or get a blowjob; it's generally pretty discreet, it's not even pederasty, it's temporary drug-induced homosexuality. When you come down, you don't have that intense desire. Sometimes intellectual capacities don't rise above the initial carnal rush. The minute after getting off, you want genital stimulation.

I was making solutions, holding the tie, doing everything but administering the shot. They were taking shots of meth and I was drinking it; it never occurred to me to shoot up. Drinking it you get higher; you get a rush but it comes on slower.

We were a wandering troupe—no place to sleep, wandering around the streets. (Joe) and I both took shots of Merck cocaine, chunks of rock crystal. He was known as "Nickel a Nostril", because he could sniff up a nickel's worth of amphetamine in each nostril. In those days a spoon was five \$—in the days of "Nickel a Nostril".

A strong shot can cause blue balls or defecation. It can cause impotence, or act as an aphrodisiac. Erection is prolonged but there is an inability to climax. Our women became ferociously insistent in frustrating pursuit of orgasm. Over a long period, amphetamines transmute the sexual drive. Good A makes you horny, it makes you want other people. It is a beautiful love potion; you could fuck all night with an eternal hard-on but you can't come. You make yourself sore; it's a meat/flesh thing.

Meth orgasms are like winding a spring for hours, building tension. Meth gives you convulsive total orgasms, it's like a *grand mal* seizure—violent, spastic, involuntary contractions down to the toes. Overamped, balling for hours, detachment from textural flesh sensations, mad, possessed, mindless. You can stop, control

Harvey Cohen

and manipulate the sexual experience of your body. It makes you more effective in stimulating and mastering somebody else's orgasms.

Methedrine enforces a concept of sex as conquest and achievement, of endurance and power. Accentuation of all the senses of the flesh eventually becomes an alienation from the flesh. All sensations—hunger, pain, fatigue—become more acute.

The biggest sex organ you have is between your ears.

When the lion has no teeth, the jackals abound. I'm infirm, in a state of magical possession. I have voices speaking in me. Energetic thoughts unchained surge through, pulsing images flick in, hang up the velocity of thought radiating from a mental state beyond the tremors of amphetamine. Psychically, I ban all words, I don't clothe thoughts in words or pictures. The house is catatonic, nothing has moved.

I'm trying to fight off a bonecrusher. Hallucinations lead into complete derangement of senses and disorder of mind, pathological fixations.

There is a tendency on methedrine to live forever. You are continually in a state of growth. It keeps you in a condition of boyish youthfulness of appetite and feeling. I sit with a peaceful, calm, beatific smile on my face but I am dying. I feel beyond the body, detaching from it, rising above it. I have a desire to fight against it—drugged, floating in a state of spirituality but truly without response to the physical needs of the body. Feeling like a piece of transparent porcelain self-perceived as beautiful. But heavy breezes will shatter it. You preside over this episode with callous unrelatedness, you smile and give your blessings to your body.

There is an ephemeral quality, an ultimate metabolic flirtation with death, a total openness to chance. You feel like God, you get abstracted, you're not flesh at all. You tend to sit indifferently while all the teeth rot in your head. You can act beyond the suffering. Sticking yourself with a needle is like some kind of fetish, like throwing darts at yourself. It's a game of precision. Shooting comes from an attempt to control life. There

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is a degree of commitment in shooting speed. I have to cope with it and what it does to me. I spend more than I have in physical resources.

There is a kind of organic guilt among people who take speed. The body fights back, your fate is tied to the flesh, you're responsible for it. Methedrine ecstasy is invalid in relation to the Earth we live on; it's very tentative, like an astronaut in space enjoying non-gravity, total weightlessness.

If you take amphetamine it destroys every relationship, everything crumbles, you can't hold a job or keep an appointment, everything else is completely irrelevant and irreverent—your only desire is to get a shot.

In some ways amphetamine is a worse insulator than horse. As Wonton used to say, "Shoot your way to freedom."

I dropped my shot, twenty dollars worth of liquid heartbeat spilled to the floor, blown off the table by pop-eyed St. Vitus gestures. My hair teased out, frizzed out like a bramble bush. When someone shook my hand it was like catching a feather. After two years of creative freaking I was flippy, nerves shot, scattered like a pane of glass hit by a rock. I was a hard-blown A-head.

Kicking A takes many months, even years to kick that paranoia, investing plots, racing through caricatures of the Amphetamine Wars, bad-mouthing everyone, monologuing. Speed is an architect that builds Gothic castles out of quicksand, gargoyles crawl through spellbound brains, racing with rocket-propelled wonder toward early death. They call speed "crank" 'cause you wind your body up like a toy soldier. After ten years of speed the body turns into a carburetor, you age thirty years, you feel like an old man before your time, your brain gets looser than vegetable soup—in discoordinated thrusts like electrode pins in a guinea pig. Speed takes out juices of the muscles and replaces those chemicals with salt-sea, briny methedrine. When I was kicking, fire would come up in the middle of the room. I would be lying in bed for days in a completely timeless place. I could imagine dialogues, I blew out my consciousness. My perceptions couldn't tell me whether the outside world was real or

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Super Nova seeking the web of ghetto drama. Energy ripoff. Everybody is building his own sarcophagus. The Turtle is plunged in darkness, in darkness and the yellow liquid, sleeping in pain among stolen scarves of India, track-marked arm sprawled like gutted wires on the floor. The Turtle is in a living coffin of desoxyn. The desoxyn is like some space plant that has captured him. It is the core and source of the corruption. It attracts an atmosphere of desolation and death, a negative force. Thrown in these dungeons of the intolerable, it takes phenomenal efforts just to take a peek at the real world. Living on the Lower East Side with speed-freaks who look in garbage cans. They tear their hands and faces, they have no blood, they could take you off. Like ghosts, they sit forever and wait to die—if they can die!

I'm surrounded by vicious, treacherous, desperate A-heads. We have established a language of absurdity: It ain't grass but it's half ass. Better an O.D. than no D. What do you do when somebody O.D.'s? Give him another geeze. Got any zockabye? I got iridescent. I got off. I got off at the right stop.

Dee, who has legal needle (diabetes), is taking a shot. Sally Action, revealing enraptured thighs, is playing pulsing, tongue-twirling electric sex harmonica.

Wonton wants to capture some charisma: "I cracked the cribs on a rich estate. A rat dropped a dime on me."

Tommy Comic Books is recruiting people for the psychic army: "Man is a fallen angel, his home is the stars."

The blessed state is always changing—the agony and the ecstasy, amphetamine and blowjobs. Everyone has his own view of himself in an asshole reflector. Why is it everything I say is revolting? Can't I say beautiful things like snail fur?

Lionel Goldbart is speed-freaking: "Am I not facing east, O Rock of Israel? O mythical night in Gethsemane! O mind games! O travels by the polar route! God/man/angel/death is aboard, immortality insurance is cancelled. Do what you will, imagination, make shadows on the wall. You are my shepherd, I shall not want, the death that died, the life that was impossible. . . ."

Harvey Cohen

In a network of convolutions, impoverished beyond despair, there is no hope for the enrichment of my life."

"You're not here for change, you're here to get high," sneers Johnny Cool, Black Power desperado. Leering eyes of a rapist slit open a bag of white "crystal".

"Bathtub amphetamine," shrugs The Turtle. "Honest attempts by incompetent people."

"Don't push me," says Johnny Cool, "my hands are weapons."

With my shoplifting done early and a stack of seconals and a piece of shit, I feel divine. I am thinking of a way to commit a new kind of crime. God help us. I am off now to the meat rack.

Spent the day going to sex exploitation companies. Made some skin flicks, no beavers. This world is becoming sexless, everything is losing its true form, it's a hangup. I can't produce anything as physical as money. If I had the bread I could become a pirate, but instead I deal drugs. It gives me that excitement I miss and love. I've been scheming and hustling since I was thirteen. Society doesn't give me the opportunity of being myself or finding myself or enjoying myself. I'm an emotional masochist. We're all housetrained. To me, life is an orgy without partners. I sleep on my own boredom. I live in a Pan Am bag. I can stand on the head of a pin. Usually I sleep all day and get up all night, go to dance halls, spasm palaces.

Speed is a kite. Mescaline is a glider to the moon. Acid chased me to the museum. I dialed a poem, got Taylor Mead desiring the window washers across the street.

We are always in the presence of an overwhelming third person. It's not unlikely that there's an A-head in my bathroom. I can't get in. The door is stuck and it feels like someone is holding the other end. I gave myself a haircut, I cut holes out where my ears are so I could hear.

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Silver-crystal sparkles of amphetamine are spilling over the dark brown corduroy suit I wear, catching all the colors of the sun rising over the city. A ballet begins. As daylight pours in through the window, the room expands.

My friends sit like monoliths, huge toads. I stick them every few hours with a giant fork and they move from one couch to the other. I can't breathe any more. My fart has escaped into the ether. I don't know if I've corrupted anybody. I've done iridescent things. Left to my own devices I move in baffling channels, I pursue my own demons.

Waiting for The Turtle to return, hoping he brings back some golden elixir. There are bialys. Ondine is eating pancakes, listening to a sneaky harmonica player on the radio. Ondine is the only girl in the Union: "It seems we are in the midst of a religious war. They're trying to convert the faggots and the dykes. Every day it's the same hopelessness. Too bad we don't have mescaline. Mescaline makes everything more today than it is." Polished pallid white face, in the same radiance as the plants, Huncke turns us on to some skag: "I'm tapioca, I don't have sou one."

"I try to overstimulate construction," says Alvin the Nubian. "I hear they're having earthquakes and large brush fires in southern California. Governor Reagan is declaring disaster areas. I was upset by the catastrophe. The evacuation procedures were excellent. I'm optimistic about the multitudes of people that got away. I imagine we're experiencing a heat spell all around the country. How is your health today? I couldn't borrow thirty-five cents, could I? I'd like to get a knish, a blintz to go with my tea. I want to get my own blintz."

I sit like the forlorn king of the Jews. I should go out more. I should let myself enjoy myself. I'm cold. It's the next step to enlightenment. Despair is a type of song I have. It's like the blues but beyond. Despair, the sickness unto death. Despair is what the bums die of on the Bowery, yet even the dead have to wait in line. Despair is a bridge between childhood and enlightenment.

I've been living a day-to-day life for the past few years. I was enchanted, I had the chance for a wish. I'm in between a siren and Marney Brown. . . .



Her innocence was worn like an ancient mantle—antique, holy and dreamlike in its undulant fadedness. She wore it proudly but with the unmistakable innocence of her birthright and by divine decree. Her isolation was kept there, inviolable. Her innocence was as unspoken and undefinable as that associated with the very beautiful, very tragic, very noble—or supremely Godlike and gifted.

Marney is dressed in pearls. I feed her angel dust. She doesn't take any food, she's a nun. She's been in a state of levitation.

Marney is a sex kitten, a temple goddess, a groupie of the Kabbala Gang. She is a multicolor invasion of a man's mind, a moon maiden, a prophetess. I bring home all the broken dolls, the children, the Bowery babies. I'm actually an aristocrat who pretends to be poor so he can be an artist. I'm a forty-year-old avant gardist living with a twenty-two-year-old mystic. We live above a tombstone factory, we can hear them chiseling the marble monuments. We spend the winter weaving nets, spend the summer weaving baskets. A chandelier of dead flies hangs in the kitchen. We sniff the immortal morning. It's the beginning of the world fire.

Marney looks at the world through a hole in a piece of pumpernickel—Marney Brown, the space traveler in a white nightgown: "I've disappeared, I don't feel anything. The pain is a new pain, a numbness. It's very foreign—like being poisoned, bitten by a snake. I'm continually building a castle with each person I meet that I can rap to."

Marney's listening to master control on short wave: "The planets are all meeting. I'm an interplanetary representative—on

accordance, not convenience. It's the season of the ghouls. We are primitives of the Space Age, the second step of God, outcasts of evolution starving in a grim depression. There is no change. People wrapped up, unwinding out of mummies' cloths. I'm eating dogfood. I'm playing my harp, an angel falls off the wall. There is a God but there's nobody listening. I'm in a maze. I get lazy. I think I'm crazy. I'm in a freezer. I'm in a haunted jungle in space. How many squirrels can you fit in a tree? How many eggs can you hatch? How could you be a sun worshipper here? The sun worshipper in the darkness. I'm carrying the branches of a tree that got run over by a car. Some people are afraid of me because I'm walking with a tree.

"I saw myself a leopard woman slaying the dragon of the gutter. Standing on the corner, I became a totem. All the children playing in an ocean of garbage. I wish my arms could take them all around. There are so many proposals in a day. I accept them all. It is you who ask the question. You are the silent voice before the word. You are the ghost of yesterday. I am no longer being judged. I am the judge. I'm taking the escalator. I want to become pure light. I'm getting the cosmic rubdown. I follow the footprints of roses. There is no shield. I say a pink prayer for the day. Why is there so much stillness in the storm? The rain is God's tears."

It's raining. Marney is sitting, sniffing the cocaine off last night's mirror. "Nothing is real any more. The sun is the only reality. I love the smell of me in the morning. Looking at the dirt stains on an old Puerto Rican wall as though it were the moon. I feel like a lady dragon. I popped some pills. I'm addicted. The gene has made me an addict. To take drugs is like working, it's on our mind all the time. First thing when you get up in the morning, you find yourself pills. You become your own hospital attendant," says Marney.

"I think God craves things. Seeds keep popping open. I wish I was an Indian. I wasn't meant to live a chicken-liver life like this. I'm just glad to have this pad, to have a place to come back to. I'm making a mental list of all the things I don't want. I'm finding out how little I really want, how all the little easy things that someone wants in life have no beginning to get to."

"I want to explore. I want to travel on the veins of a leaf. I want to learn a higher form of love. The only way I understand life is through touch.

"I feel like a bottle of dreams. It will always feel like we're trapped. It's a man's world and a man's war - ain't got nothin' to do with us, chicken. Women just go on making babies, washing floors, cluckin' around, making clothes and spending bedless nights. I don't think there will ever be a man for me. I'll spend the rest of my days in bed with Lorca.

"I'm a Welfare angel, I have P.D., Permanent Disability. I'm on the public records as a psychotic. All during Welfare I was reading Artaud. I didn't want to die any more. I wanted to stay away from dying, from wasting away. I was given a flash into the future. I saw the giant shadows of little men. I found myself running through Sigmund Freud's orgasms, Reich's books on sexual revolution.

"Sex is a refueling, a connection. Sex is life's physical form, the silhouette; it's the one thing we all have in common—that one feeling.

"My lovemaking is very quiet. My woman is so quiet. A shadow, the creator of the guilt is running beside me, she is the other me. I'm always in a duel with my self.

"Everybody's trying to do each other in. We destroy fantasies every day. It's called mind-fuck. It's called invasion.

"Occupation? Drugs. Everybody needed an experience. They turned on, dropped out, fell into a dream. I put myself in a freezer, I was plucked out of space. Limbo love. We spent all our romance time on the battlefield. The men are at war and the women are weeping.

"Why are there so many misfits, so many suspended people, so very little communication between men and women? How much energy to put into birth—into creating another human being—into creating yourself?"

Marney is a medium, she can have good or evil enter into her. She brings in all things from other places, she doesn't know distinguishments, she can't see the evil. When she primal screams,

Harvey Cohen

Four people around the cooker, sitting over an ancient fire: The Turtle, The Iceman, Marney and I each shot a matchhead of pure heroin. "I feel like a junk tourist, touring junk," says Marney. "I can feel the breathing of the city, every four seconds I can feel the dip, the earth-breathing of New York. Junk is a deep place, junk changes the beat of the moment, it changes time, breaks the dimension. I dreamt I was on a safari killing cockroaches."

"I dreamt me and J.P. were on a nigger hunt," says The Iceman. "We were in an empty lot cooking up skag. I got my wings on the Asian stuff. I used to cook it up in the palm of my hand, it was so pure."

"I do have severe reservations about it," saith The Turtle. "Shooting up was not part of my style of life, it was absolutely a foreign thing beyond my comprehension. Over the years, I would give people shots. Then it occurred to me that I could do it, too. You build up a bond with the help of your friends. There's no point in getting high alone. You have only to surrender to the inevitable, the mere fact of need is enough to guarantee it. We take shots of 150 mgs., 200 mgs. Doctors think we should be dead—to some extent they're right. It's a trap, there's no way out of it. There are some people I enormously object giving a shot to, and yet I do it anyway. I haven't been to my probation officer in two weeks. I figure if the worst happens, it's my karma."

Lionel Goldbart is singing "The Perfection of the Blues Ad Infinitum", playing Jewish roulette: "I was jilted. Shooting up took me out of context. I almost tripped over small objects—a cigar, a colored lady. It was seven come eleven and Lionel Goldbart is known for promptness. A breakthrough happened when I left Mark's. Met Beverly and shot up. Elevator revving, I'm secret psychedelic striking sparks off the cosmic anvil. I got the God blues. With my right hand I describe mathematical curves. Spaced from time, I'm burning the sun. I plot the curve of life. I have a dual aspect. My hands are cold, can I play without gloves? I catch myself in the character of the executioner. Can my recalcitrant body work out? It's not me, it's the world that keeps pulling things away."

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"The secret enemy never rests. Pain made a funnel in the recess behind my right ear. I conceived of myself as a slot machine. I'm a machine gun emptying that bitterness. My faithful servant, the voice of Marney Brown echoing in my brain."

Marney: "The drugs have helped. They have prevented us from being blind, made us invisible so we could feel the wind of light and travel the wheel of life on a gift from the sun called aura. Drugs intensify the light and they intensify your own evilness. You're constantly axing yourself. We're all like woodpeckers pecking the city. New York is the most explosive thing on this planet. New York City is the glare. We're trying to break through the bubble, through the dome. We're trying to break through this force with our drilling minds. This place is solitary confinement in total luxury. People are living some dream sun reality. It's like bottling sunlight . . . sunlight, mysteries and slavery."

"We must be very near each other in the spectrum though our colors are different. We were born under the same forgotten star. Sleep recharges us."

"The gong of the Lower East Side just rang, a giant garbage-can top. Bombarded by people, too many people. I'm just a mermaid in the desoxyn ocean, bumping into things. Amphetamine is like being a walking advertisement. I'm advertising heaven and hell. I have an ocean of desoxyn in my body. Desoxyn is like dropping a little chemical sunlight. Desoxyn sweeps my mind. The sky is on a cardboard billboard covering the sky. Get on the highway to happiness."

"Making myself a house of God. This is a house of God but the God is drugged. I think you're short-circuited somewhere, chained to your own hangup, running around with a blind person. All the handicaps make you flee to a place that allows you to breathe. I love you, Harvey, but I don't want to live in the middle of a doctor's office. I'm a caretaker for a giant amphetamine brain, everybody's neurotic behavior. I'm taking thirty mgs. a day."

"It's not the sex, it's the love-sex, the caring for yourself so

Harvey Cohen

"It's not quick energy we're looking for. Maybe it's seeing a dream world or finding the one great fairy tale among thousands of false trails.

"I get the impression that things fit, even when there is no relationship. I find myself emphasizing details that I have already discarded. I pay attention to my dissatisfactions. There is no comfort in this world. I can't get to what I need, imperative steps in my life. I have to clean my mind out. I feel I have a growth in my brain which is keeping me stupefied.

"Passing out, loss of breath, momentary inability to bring oxygen to the lungs, lassitude and faintness. The pleasure of right action is destroyed when one's tone is destroyed. That which is dead is confined to a vibrationless plane. The body doesn't have any warmth or temper to radiate. The voice of life has gone out.

"Why should I be concerned about money? I find that I'm not smart enough to keep myself from feeling the pangs, the needs, the hungers without money or recourse to it. I'm involved with the charity of morons.

"I have to be careful that I don't become addicted to what I'm kicking on—methadone, a substitute for what I once found necessary. I have to go there five times a week, have my urine analyzed, be treated as if I were a mannerless boob. I can't kick methadone cold-turkey, being sick for months, hung up because the pain I lost was the pain of shooting up the heroin. Pain is the first thing that dissolves when you take a shot of heroin: the hours spent, the errands of necessary evil one must commit just to buy it, just to earn the right not to be heroin sick.

"The legions of evil increase the sabotage—the pollution of the procreative resources, of water, air, vegetation and flesh.

"Life is filled with a bag—every waking minute scoring, struggling to put some milk sugar in my arm. Junk, like death, turns off all feelings. It's not painful to be without my self, my pains, my aches, my wonders, my rage, my inability to get off the anti-life wagon.

"One can go into a dream; too often it is discolored, greyed, unpleasantly fantastic. What could have been beautiful vistas fanned before us becomes a highway strewn with historical

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markers of wrecked lives. Life-wrecking really comes from the witchhunters who pursue the drug and its users. Every prohibition is an annulment of life, just another hurdle to be jumped by the dulled brute, hypnotized to heartbreak.

"A drug conviction is a terrible violation of a man's rights. It takes away the user's pride, his belief in his right to master his own destiny. Every disillusionment with the drug, every feeling of danger (you must withdraw from it, otherwise you'll be trapped in some way by society) makes the drug less effective. Just to wean oneself of the desire for drugs spoils its high. Moral hallucinations tint your experience, a dreadful blot of self-punishment.

"Too often our supply disappears; stash, bankroll and credit are eaten by insatiable habit. Few people on this set retain the ability to straight-think. Dealing is an inevitable ticket to trouble and jail.

"Dealing drugs is supervised by the police, the F.B.I. and the National Narcotics Division who are literally trapping groups of dealers and pushers. They raid them, bust them and drag them *all* into jail. Everybody else is affected by it, too. It becomes a distasteful thing to use because it has been made ugly by the buccaneers, sailing corsairs of the queen-president on the armada of dreams. Our souls have been held up for public ridicule, yet our lives are demanded as a barricade against aggression."

Gentlemen:

My fellow highnesses of the crystal implore you to let go your stranglehold on our existence. You are making amphetamine a tedium for us. If we are forced to let it go for something easier, we are afraid that something beautiful and important will be lost to the world. Certain areas of consciousness will no longer be aroused, certain paths and patterns will grow dim and untraceable. Perhaps telepathy and the expansion of the consciousness through the use of amphetamine are communication with other planets. Without it, the understanding of totally alien psyches will never develop.

—Joel Markman

Harvey Cohen

Shooting a speedball—a combination of amphetamine and heroin. The combination catches the speed rush in mid-air. It's like a pillow fight in a dream, like being on a high-speed diesel locomotive going through space. I listen down into myself, into a warm black echoing well that sends back loving vibes. It's physically beautiful, a heavenly high, a hallucination of paradise now. The slats of the venetian blinds open across the room. The eyes open up like semaphores signalling waves of light. It's almost as if two lights were needed to perceive—the light from you and the light that comes from things. A chemical reaction of a kind, a musical ringing in the blood.

Seeing myself in a kaleidoscopic pool of flesh and blood. Brain cells expand to a new frontier. A lifetime within seconds. On amphetamine, my body is aware of its destruction. Every broken, damaged thing I see evokes compassion, compensation for the loss of my self. I feel buried alive, a repository of all the wisdom and foolishness in the world. My personal rituals are like a compost heap of symbolic actions, cumbersome motions, mystic mistakes, broken prayers. My psyche is a rock that gets chipped away every day.

In a state of psychic debilitation, vulnerable to all the hustles of existence, I pervert my own actions, my sense of perspective. Endless machinations, the tyranny of objects, the electro-magnetic aspect of living inside the TV set. Something is cracked in my fundamental life instinct.

I'm eating myself into a state of oblivion. I forgot the source of food, I have to forage around, at the mercy of labels. I take vitamins to counteract all the deleterious drugs I take into my body. My heavy density, my unending lasciviousness. You can use me as a computer, a love slave. I've done deals in my sleep and not even known it. My consciousness is like a seeping gas, an emission that floats around the house. I lose days, weeks, little drops of eternity.

Smoking DMT: An instant zap beyond the spiral of time, down through the atoms within molecules within cells to the soul. The rush stops after several minutes. You look about you. Everything is here; all souls have the same yearning for peace. You are in the natural flow of creation, the mandala of life. Awesome orders, the DNA twist, the seasons, spinning atoms from solar systems to galaxies and nebulae, swirling universe singing with celestial geometry, tantra. You feel the Holy Ghost fill your empty body, each nerve an electric orgasm. Your flesh breathes and you are made whole through love, the illumination of Godhead, energy most ancient and immortal. This is *samadhi*, the beatitude of direct perception of the clear light.

You are high (HOLY) by grace of the spirit of God in whose light you bathe. The flower of DMT perfuming the nerves with psychic sensations. You have become telepathic, eloquent without words.

I looked into the eyes of my cat for hours; as pure thoughts rushed through my brain, the optic nerve of the cat dilated and contracted rhythmically, to vibrate in tune with me. In a daisy field near Woodstock I was OMing. A butterfly, with oscillating antennae, beat its wings to begin OMing me.

At the outskirts of paradise, I witness the rise of evil in myself. Walls dissolve, blood is drained from my veins, my ego is crucified. Chanting up the sun, the cold stops, points soak in, time changes. I feel God, I believe in God, I know God through the sacrament of acid.

Acid was the convincer. I could not break out of the patterns that were trapping me until acid revealed the possibility of new programs. There were whole levels of feeling that I didn't know

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about for lack of emotional and spiritual resonance.

On acid I was the Indian, I became the mosquito god, a war god. I sang to the mosquito, talked to nettles, saw the spirits of the woods. They were all chanting to me in divine whispers. Ranting and raving through the forest, glad to be alive. I was sitting there playing the *I Ching* in mid-space and the coins took on a life of their own. The book became a trumpet, blasting me with spirit force - an oracle.

LSD floods my nervous system with ecstasy vibrations. Mystic third eye, eye of the soul uniting consciousness with God. God is not separate from us. We are all in Him, He is in us, we can experience His highest love. For surely, if you are not born again you cannot reach the kingdom of God, the expression of union with all beings and all things. God is love and He is the only Father, all brothers are we.

Emerging from my depths come images uniting me to all forms of evolution; my breathing is calm, holy process of nature. The great coming together, being naked flesh, experiencing union of man-woman, most natural song. Flowing, sharing, blood and flesh, mind and soul, love and God, we are cleansed with His blessings. Manna, a wafer as sweet as dew and honey, food for the soul. Heaven and Earth are lovers, showering each other with gifts of atoms. I have gone to rivers and stopped before the waters rushing laughter. The river eddied and swirled with my thought. The sun shone through the trees, rays coming straight down to the spot. Once in a knoll near a clump of daisies I fell to my face, weeping with joy, hugging the grass jewelled in the dew of early morning. When I arose, the energy of Mother Earth pulled me back down. Something in me arose, sweeping all fears away. I felt it in the marrow. I had been praying without shame. I heard seven different birds sing. I felt the Holy Ghost in waves. The sun had risen. I felt Christ and sang blessings. The sky was changing from indigo to bright blue and everything was light, bathed in dew, browned by the sun, existing peacefully in splendour.

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Swaying gently to and fro in a hammock suspended in space, eating opium, surrounded by painted houris in an atmosphere of elegant incompleteness, Ira Cohen speaks:

"I have a tolerance but I can't rid myself totally of desires. It's like Babylon without style. We might have womens' wrestling next week. It doesn't take much to change the whole scene. Nothing is true, everything is permitted. We're experiencing all the so-called human sins. We have reached a decadent phase in our culture. I just hope we can create something magnificent out of all the little pleasures and social successes. It's in times like these that empires are built.

"Raymon's pickled in alcohol, Fritz is in Marrakesh, Angus is in the Hotel Albert compliments of Paolo Lionni, Lionel is lying on his couch moaning, guys biting my tits at the bar—what are we, *schlemiels*? After all we know, after the Arabs and all the selling, we should get the maximum price.

"In one snort, Raymon is reduced to a jibbering amphetamine butterfly, trying to suck honey from every flower, careening dizzily, unable to relax; then Jacques lays his crippled force on Raymon.

"The world is tripped out, you can't expect things to run so smoothly. The bulb for the movie-scope, heels on my shoes, I have to do all these things to restore it to the same state of crumbling as yesterday, I have to get the phone turned back on. Through the slushy shit-filled streets with the fuckin' laundry I got to walk eight blocks for a pair of socks. I need the socks just to get to the phone company and have the phone turned on to find out whether or not last week really happened and I naturally got a wrong number and had to pay another dime to find out that I was rejected from the Modern Museum.

"I realized the other night that I might be the Gertrude Stein of our time. My clitoris might be a little longer than hers, a bit less leathery. Why should I be pinned at the larva stage?"

My immortality is fading. Welfare is threatening my existence, my declaration of continued need for public assistance. I turned myself in to Greenwich House and made public confession that I'm a disabled drug veteran, I can't work, I take speed. When I don't do it, I get depressed and when I do, I get too high to work. I've lost most capacities for functioning in this world. I'm a habitué, not an addict. I have no profit motive any more. Can't slip out on straight activities; only outlaw activities are comfortable. I cop for people. I don't have a lot of money to invest or I'd deal for myself. I'm in a position which is untenable. I'm pivotal, without me nothing would happen, Mister In-Between. I equate drugs with money, they transform easily into metaphysical dollars, the equation is very direct. The demand for drugs is increasing.

The Lower East Side is the serpent's tail, the fugitive soul of contemporary New York. Scuffling through all the rubble and heartbreaking existential potential, entangled in systems that make slaves of us, we are the revolutionaries of a new lifestyle. We are warriors of the ghetto, sons of light. We are the ripple that comes before the wave. The city is a monster, the slums are its stomach. Once you live down here, you're under the belt.

Do you have one? I'd like to tie up. Are you solvent? Can I borrow a dollar?

I don't have a penny. I'm living on magic and good karma.

It doesn't matter, I'm not materially distracted.

I want to cop a bag, I want to get off so I won't have to hassle with anyone.

Do you have a smoke? Can I have a pull on your butt?

I'm totally flat-out broke, two months behind, burrowing, trying to get to the sun—the mole, the earth digger, getting it together. I'm near crazy from living without money, a at everyone's mercy. Women are very fundamental underneath.

Harvey Cohen

Marney: "When you stop taking speed you have a mental collapse. Amphetamine has an innate destructive karma to it, you get zapped, you could be struck down by it, you could die, it's like lightning, body lightning. You're putting a bomb in yourself which causes a brain reaction. I've exhausted all those brain cells, I exhausted my creative self.

"After three years of intensive thought I can start hearing my own voice. It used to be broken up into a lot of voices, it's all getting together into one chanting sound. Coming down is like some sort of meditation. I can feel my fingertips, the day moves a little slower, I can feel my heartbeat, I can feel pain now. I feel young again. I was feeling old, like living death. You mix amphetamine and magic and you disappear, it's like a graveyard of pain.

"My higher self doesn't react to the reality of drugs but my lower self accepts, devours and exploits anything they put in front of me."

Marney is eating peyote, little space buttons: "O ancient shriveled mouth, peyote button! Peyote is like having God in me. Peyote is home, it's like a baby, it fills me. I am of the Earth, I'm of that taste. I'm of God, I'm not of the unknown. Peyote gives you security. The other drugs don't give you security, they're not biologically complete. Peyote makes you feel like a seed, like you've been planted, you feel biologically complete, you don't feel stranded.

"If you're living every moment in pain, so shall ye die in pain and go to pain, but if you die every moment in search of freedom, then shall ye be free.

"Man is the conqueror. You're an old Indian, Harvey, you are a medicine man. You're at constant war with yourself. My mind is so filled with my own personal war. At the same time, every person that I meet I have a war with and I smoke a peace pipe with them. Everybody knows that it's hard for all of us. It's one common catastrophe. We make a heaven and hell right here. Time is a search back to the garden.

"The white man has life insurance. The white man has made his own drugs and his drugs are killing him with disease and disharmony.

United States District Court for

(the SOUTHERN DISTRICT OF NEW YORK)

DEFENDANT

WILLIAM LACEY

DOCKET NO. 77 Cr. 210(JMC)

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (5/74)

In the presence of the attorney for the government, Allen A. Bentley, AUSA, the defendant appeared in person on this date.

MONTH	DAY	YEAR
11	7	77

COUNSEL

☐ WITHOUT COUNSEL

However, the court advised the defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court. The defendant thereupon waived assistance of counsel.

☒ WITH COUNSELO.T. Wells, Esq.

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,☐ NOLO CONTENDERE,☐ NOT GUILTYThere being a finding/verdict of ☐ NOT GUILTY Defendant is discharged
☒ GUILTY

FINDING & JUDGMENT

Defendant has been convicted as charged of the offense of unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug, controlled substance. (Title 21, U.S. Code, Secs. 812, 841(a)(1) and 841(b)(1)(A) and Title 18, U.S. Code, Sec. 2.)

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWO(2) and ONE HALF(2 1/2) YEARS on count 2. Defendant placed on Special Parole for a term of THREE(3) YEARS, to commence upon his expiration of confinement, pursuant to Title 21, Sec. 841., U.S. Code.

Bail pending appeal of \$50,000.00 is to be continued, and to ^{be} rewritten and posted by 12:00 PM on Wednesday - 11/9/77. *JMC*

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS

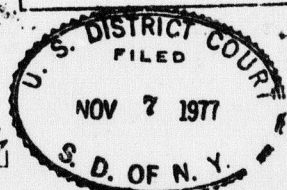
In the event of probation imposed above, it is hereby ordered that the general conditions of probation set out on the attached form be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time or within the maximum probation period of five years permitted by law, may issue a warrant and revoke probation during the probation period.

Under the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

MICROFILM

NOV 9 1977



11-7-77

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Received 4/14/78

240 p.m.

Allen R. Bentley

A.U.S.A., S.D.N.Y.